THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24808 of 2006

29.11.2006

Between:

PUTTA VENKATESAM SETTY, S/o.Rangaiah

... Petitioner

AND

The District Collector, Kadapa District at
And others

... Respondents

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.24808 of 2006

ORDER:

The petitioner is statedly owner of agricultural dry land in survey Nos.267/1 (Acs.1.22), 268/1 (Acs.0.78), 268/2 (Acs.1.79) and 268/3A (Acs.1.59) situated at Thadigotla village of Chintakommadinne (C.K.Dinne) Mandal in Kadapa District. He filed the present writ petition aggrieved by the notice issued by the third respondent under Section 7 of the A.P. Land Encroachment Act, 1905 (the Act, for brevity). Stated briefly, it is the case of the petitioner that the land owned by him is not Government land and it is a patta land. When the land was acquired for public purpose by issuing a notification under Section 4(1) of the Land Acquisition Act, 1894 (LA Act, for brevity), in 1984, the petitioner and another filed W.P. No.14436 of 1984 and this Court quashed the said notification under Section 4(1) of LA Act. It is also the case of the petitioner that the Mandal Revenue Officer (MRO), C.K.Dinne Mandal – the third respondent herein; submitted a report to the first respondent on 28.12.2002 to the effect that the land in possession of the petitioner is not Government land. Therefore, it is the contention of the petitioner that the issue of notification under Section 7 of the Act is *ex facie* illegal and unsustainable. Learned Counsel for the petitioner submits that the Act has no application in relation to private patta land and, therefore, the notification issued is without jurisdiction.

It is now axiomatic that at the stage of notice or at the stage of enquiry for the purpose of investigating facts, a writ petition to stall such notice/enquiry is not maintainable. Having regard to the earlier documents relied on by the petitioner, the petitioner can always request the MRO to decide the question of the nature of the land as a preliminary issue. Therefore, the writ petition is disposed of, directing the MRO to decide the question whether the land in survey Nos.267/1, 268/1, 268/2 and 268/3A is Government land or private patta land before proceeding further and passing orders under Section 6 of the Act. The petitioner is given a week's time to file application, if such an application is not already submitted.

The writ petition, with the above observations, is accordingly disposed of. No costs.

_____

November 29, 2006 (**V.V.S.RAO, J**)

YS